



Potato Program
P.O. Box 727, Presque Isle, ME 04769, (207) 764-3361; Fax (207) 764-3362

November 1, 2010

Gary Fish (Gary.Fish@maine.gov)
Manager, Pesticide Programs
Maine Board of Pesticides Control
28 State House Station
Augusta, ME 04333-0028

Dear Gary:

I read on the upcoming November 5 Agenda for the MBPC meeting item #9.:

9. Discussion of the Board Policy on the Use of Homemade Pesticides
Periodically, the Board's staff receives inquiries about the legality of using common consumer products such as vinegar or dish soap as pesticides. Over the last year, MOFGA Certification Services LLC has inquired about a number of products, and a recent newspaper account about municipal employees applying homemade herbicides resulted in requests for Board staff to investigate. EPA's position is that anyone may produce a pesticide for their own use on their own property without registering the product. However, use of unregistered pesticides on the property of another or for commercial purposes would be unlawful under EPA's policy. The Board has never taken an official position on the subject. In light of the recent level of interest in the topic, the staff is now requesting that the Board take a position.

It is my understanding that the board has never taken a position on this subject. **I am urging the board to take the position that the "home-brew" pesticide applications are applications of illegal pesticides.**



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Recommendations for pest control have been for the application of:

human urine
cider vinegar
hydrogen peroxide
baking soda
NaHCO₃
... and the list goes on.

Some of these recommendations are from word of mouth, some are from consultants. If a consultant recommends these types of materials for pest control, I suggested that they get different consultant, preferably one with CCA (certified crop advisor) credentials. I have also been putting “home-brew pesticides” information out in house (APPENDIX A). All too much of this illegal pesticide application goes directly to the consumer through farmer’s markets, roadside stands, CSA and similar situations. Likely there is no commercial-level of produce washing and certification under GAP (Good Agricultural Practices) standards in these situations.

I think the position that the “home-brew” pesticide applications are applications of illegal pesticides is rather straight forward for food products that are given away, sold, traded, bartered, donated or consumed by anyone other than the applicator. However, the acceptance of “home-brew” pesticides for a user/consumer is a concern. Frequently there are other family members consuming the food. As I have stated earlier:

As a general rule, you can do what you want to yourself (From http://en.wikipedia.org/wiki/Suicide_legislation) ... Suicide has historically been treated as a criminal matter in many parts of the world. While it's technically true that a person who has successfully committed suicide is in some respects beyond the reach of the law,... (APPENDIX A)



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Bear in mind in this internet age, a wealth of information is available; some may be good, some may be misguided. Should you want to ramp up your insect control with a “home brew” and make Paris green (a copper arsenate material), there are ample resources (e.g. <http://books.google.com/books?id=K-8MAAAAYAAJ&pg=PA632&lpg=PA627&ots=GYP3MkqxzW&dq=manufacture+paris+green&output=text#top>). If you really want to go first class, you could make lead arsenate (http://www.archive.org/stream/somechemicalrela00hedgrich/somechemicalrela00hedgrich_djvu.txt). In the description from the site above:

Arsenate of lead remains in suspension in water much longer than Paris green, because of its very low specific gravity, which is 1,00688 while that of Paris green is 3,42225. In spraying, the low specific gravity of arsenate of lead and its consequent suspension in water for a considerable length of time make it possible to distribute it more evenly over vegetation. The white color is also a decided advantage, for one is enabled to see at a glance whether a tree or shrub has been sprayed...

I assure you that the University of Maine Cooperative Extension does not condone the use of Paris green or of lead arsenate. I hope that it has not been used in this century in Maine. I also assure you that the University of Maine Cooperative Extension does not condone the use human urine on apple trees for disease control. I only wish I could tell you that it has not been used this century in Maine for that purpose.

The state of New York regulatory language (<http://www.dec.ny.gov/regs/4424.html>) defines pesticides as:

§325.1 Definitions.

(aw) **Pesticide** means: (1) Any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any insects, rodents, fungi, weeds, or other forms of plant or animal life or viruses, except viruses on or in living humans /or other animals, which the



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department shall declare to be a pest; and (2) any substance or mixture of substances intended as a plant regulator, defoliant or desiccant.

Furthermore, the state of New York (<http://www.dec.ny.gov/regs/4423.html>) requires pesticides to be registered.

§326.14 General Requirements for Pesticide Product Registration

(a) Every pesticide product which is used, distributed, sold, or offered for sale within this state or delivered for transportation or transported in intrastate commerce or between points within this state through any point outside this state shall first be registered with the commissioner, except a pesticide product in the possession of any carrier while lawfully engaged in transporting a pesticide within the state, if such carrier shall upon request by the Department, permit the commissioner or his/her designated agent to copy all records showing the transactions in and movement of the pesticide product.

Clearly the position that the “home-brew” pesticide applications are applications of illegal pesticides is not new, just new for Maine. I have been in discussions with Eric Sideman on this topic. This position is one he has been “trying to get this message across for over a year now” (APPENDIX A). I concur with Eric Sideman and MOFGA and applaud them on their efforts. I feel it is time the MBPC takes a leadership role in this issue. Again, I am urging the board to take the position that the “home-brew” pesticide applications are applications of illegal pesticides. If you have any further questions or require additional information, please feel free to contact me.

Sincerely,

A handwritten signature in black ink that reads 'Steve B. Johnson'. The signature is written in a cursive style and is underlined.

Attachment



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APPENDIX A

From: Eric Sideman [mailto:esideman@mofga.org]

Sent: Friday, July 30, 2010 8:24 AM

To: Steve Johnson

Subject: Re: current pesticide issues

Hi Steve,

We have been trying to get this message across for over a year now. It is a slow process because many of our growers have worked up from being gardeners and they carry that philosophy. We are gaining.

ERic

on 7/29/10 4:54 PM, Steven Johnson at stevenj@maine.edu wrote:

Aggies:

I have been getting numerous calls about pesticide questions on organically produced crops.

Recommendations for pest control have been for the application of:

cider vinegar

hydrogen peroxide

baking soda

NaHCO₃

... and the list goes on.

Some of these recommendations are from word of mouth, some are from consultants. If a consultant recommends these types of materials for pest control, you would be doing your clients a favor by suggesting they get different consultant, preferably one with CCA (certified crop advisor) credentials.

Please bear in mind that the application of these materials for pest control measures constitutes an **illegal** pesticide application as it violates Federal and State Pesticide laws. In fact anything that does not have and

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EPA registration number and EPA Establishment number (and host of other requirements) on the label is **ILLEGAL TO APPLY AS A PESTICIDE.**

As a general rule, you can do what you want to yourself (From http://en.wikipedia.org/wiki/Suicide_legislation <http://en.wikipedia.org/wiki/Suicide_legislation>) ... Suicide has historically been treated as a criminal matter in many parts of the world. While it's technically true that a person who has successfully committed suicide is in some respects beyond the reach of the law,...) **but should this illegally treated produce be given away, sold, or anyone other than the applicator consume the produce, potentially a whole can of worms can be opened. Homebrew pesticides are not legal for use in these situations.** Legally, you can't make compost tea or Paris green at home or use cider vinegar for pesticide purposes.

I know organic farmers are very concerned the parameters to achieve and maintain organic certification, but there are legal regulatory parameters for pesticide application (virtually EVERY organic operation applies pesticides), worker exposure, personal protective equipment, recordkeeping, and more. The consequences of not following the legal parameters can be severe. Think crop forfeiture and worse.

Remember that pest control materials approved for organic production are **pesticides**. This means that applicators must adhere to all applicable pesticide application laws. Failure to do so is a violation of pesticide laws. Workers need to be trained under appropriate WPS (worker protection standards). This includes having a decontamination kit available for each worker, a central information display and appropriate records and information and personal protective equipment must be supplied and maintained.

Feel free to call me. Also, Eric Sideman can explain this to your clients as can Gary Fish of the Maine Board of Pesticides Control.

Keep it legal and keep it safe.

Steve Johnson



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